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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,805	09/07/2000	Richard Niccolai	32955	1855

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EXAMINER

DABNEY, PHYLESHA LARVINIA

ART UNIT PAPER NUMBER

2643

DATE MAILED: 04/01/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/656,805

Applicant(s)

NICCOLAI, RICHARD

Examiner

Phylesha L Dabney

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 07 September 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is in response to the application filed on 7 September 2000 in which claims 1-17 are pending.

#### ***Specification***

1. The disclosure is objected to because of the following informalities: Each section of the specification should include section headers in upper case. Appropriate correction is required.

#### ***Claim Objections***

2. Claims 1-8 are objected to because of the following informalities: claim 1-8 do not properly set-forth any steps involved in the process of manufacturing the hearing aid parts.
3. Claims 2, 6-8, and 14-15 are objected to because of the following informalities: the term "the housing" was not presented in independent claim 1. Appropriate correction is required.
4. Claim 16 is objected to because of the following informalities: the term "the surface zones" was not presented in independent claim 9. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2643

5. Claims 1-15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Aebi et al (U.S. Patent No. 5,530,763).

Regarding claims 1 and 9, Aebi discloses a hearing aid assembled from several parts characterized in that at least two of the parts are jointly manufactured from different materials by two or multi-component injection molding (2 using PTFE material, col. 3 lines 26-31; 3-5 using "a suitable plastic" vinyl polysiloxane, col. 4 lines 7 through col. 5 line 26; and filler compound).

Regarding claims 2, 10, and 17, Aebi discloses one of the parts is manufactured by two or multi-component injection molding in the form of at least a portion of the housing (3, col. 4 line 66 through col. 5 line 5).

Regarding claims 3 and 11, Aebi discloses one of the parts is manufactured by two or multi-component injection molding in the form of a seal (3 is the enclosing (seal) top portion of the hearing aid, col. 4 line 66 through col. 5 line 5).

Regarding claims 4 and 12, Aebi discloses one of the parts (4) is manufactured by two or multi-component injection molding in the form of an acoustic conductor (42) situated at the output of an electromechanical transducer (41) of the hearing aid.

Regarding claims 5 and 13, Aebi discloses one of the parts (3) is manufactured by two or multi-component injection molding (see rejection of claim 1) in the form of an acoustic conductor (32) situated at the input of an electromechanical transducer (31) of the hearing aid.

Regarding claims 6 and 14, Aebi discloses a seat (3-4) for parts of the hearing aid (31, 41) is manufactured by two or multi-component injection molding in the hearing aid housing (see rejection of claim 1).

Art Unit: 2643

Regarding claims 7 and 15, Aebi discloses a rim portion of a feed-through aperture (34) of the housing (3-5) is manufactured by two or multi-component injection molding (3, col. 4, lines 25-31 and use of a suitable plastic, see rejection of claim 1).

Regarding claim 8, Aebi discloses a predetermined surface zone on the outside of the housing portion being jointly manufactured with the housing portion by two-or multi component injection molding (col. 5 lines 20-35).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aebi et al (U.S. Patent No. 5,530,763).

Regarding claim 16, although Aebi does not specifically teach another material used for the surface zones (filling, col. 4 line 58 through col. 5 line 35); manufactured as adjoining the housing zones at the housing outside and in; are produced jointly with the housing zones by two-or multi-component injection molding, Aebi does allow other molding compounds, i.e. compounds with foaming agents, to be used as filler for improving the shaping characteristics (col. 5 lines 6-12). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use other molding compounds in the invention of Aebi for improving the shape characteristics.

Art Unit: 2643

***Conclusion***

The examiner requests that the applicant submits a copy of the Swiss reference cited on page 1 of the specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L Dabney whose telephone number is 703-306-5415. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 703-305-4708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(703) 872-9314, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

(703) 306-0377, for customer service questions.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

PLD  


March 20, 2003

  
CURTIS KUNTZ  
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